COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1130-02
Bill No.: HB 677
Subject: Commercial Code: Uniform Laws
Type: Original
Date: February 22, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on All State Funds	**($Unknown)**	**($Unknown)**	**($Unknown)**

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	**$0**	**$0**	**$0**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 7 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials of the **Department of Economic Development- Divisions of Finance, and Credit Unions** assume no fiscal impact.

Officials of the **Department of Labor and Industrial Relations** assume there would be no fiscal impact.

Officials of the **Department of Insurance, Office of Administration, and the Department of Revenue** assume there would be no fiscal impact to their agencies.

Officials of the **Office of Secretary of State-Division of Uniform Commercial Code** assume this proposal would have fiscal impact to the UCC Division. Officials stated that there are no aggregate totals available from the counties that would indicate the number of filings made annually. Therefore, it is not possible to estimate the amount of revenue that would be generated by this proposal. Income from filing fees is Unknown

Officials stated that costs for their division would come from several sources: **1)** technological changes required for filing of UCC material could not be implemented in the current mainframe environment. The costs of technology equipment that would be required cannot be estimated at this time; **2)** depending upon the number of new filings, the division could require additional FTE along with additional equipment and expense and storage space.. Section 400.9-519(h) requires UCC to process all filings within 2 business days after receipt. In order to comply with this provision additional FTE would be required. The number of FTE required is indeterminable. **3)** Section 400.9-526 requires the SOS to adopt and publish rules to implement this proposal. Section 400.9-526 (b) requires such rules to be in harmony with the rules of other states. Further the rules must be such that not only the practices, but also the technology of the UCC Division must be in harmony with the practices and technologies of other jurisdictions. There will be a significant time and expense involved in developing such rules, and it is not possible to predict the total number of pages would be used in publishing the new rules. The costs for publishing rules in the Missouri Code is $27.00 per page, and $23.00 per page in the Missouri Register. Further, to the extent the technology of this office is required to be compatible with the technology of other jurisdictions would have significant expense. Officials stated it is not possible to predict this expense; **4)** this proposal requires the SOS to report annually to the Governor and General Assembly on the operation of the UCC Division. The report shall include a statement comparing Missouri rules to the rules of other filing offices in other jurisdictions that have enacted all or substantially all of this act, along with reasons for variations and also report on any rules not in harmony with the most recent revision of the Model Rules promulgated by the International Association of Corporate Administrators. Preparation of this report would

ASSUMPTION (continued)

require significant legal resources if in fact it is contemplated that the laws of all 50 states must be researched and compared to Missouri's law. Current SOS legal staff would not be able to undertake this sort of comprehensive analysis of the laws of all 50 states. Officials assume that additional legal FTE along with necessary equipment and expense would be required to produce this report. **5)** Officials noted that current fees include a $5.00 fee, (the Technology Fund). The fee charged under this section is scheduled to sunset on 12/31/01, after which time all current fees would be reduced by $5.00.

Officials of the **County Employees Retirement System (CERF)**, stated that CERF receives $6 for each UCC filing. This proposal eliminates this source of revenue and replaces it with an identical amount of revenue through a distribution from the SOS to the respective counties. The counties would then remit the distribution to CERF. Officials assume this will delay the receipt of funds for up to three months, which means there would be lost investment return opportunities. CERF conducted a survey of County Recorders. The findings of the survey show that the number of 1997 UCC filings recorded in counties that participate in CERF was approximately 112,000. Based on that data, Aon Consulting projected the amount of investment income that CERF would lose because of the later receipt of funds is: 2002 $16,000; 2003 $17,000; and 2004 18,000.

Oversight notes that the loss of investment income to the County Employees Retirement System are not considered local funds for fiscal note purposes. The only contributions to the system are from fees established by statute.

Officials of the **Callaway County Recorder of Deeds** assumes lost revenue to the County's General Revenue Fund would be reimbursed by the Secretary of State, therefore, there would be no fiscal impact.

Officials of the **Office of Recorder of Deeds of St. Louis County** estimates the annual loss to the County's General Revenue Fund to be $85,000 annually

Oversight assumes that County Recorder of Deeds would realize some administrative impact from not being required to make UCC filings. Oversight assumes the savings in time and supplies would be insignificant on a per county basis.

FISCAL IMPACT - State Government	FY 2002	FY 2003	FY 2004
GENERAL REVENUE FUND			
Income to Secretary of State from UCC filing fees	$0	Unknown	Unknown
Cost to Secretary of State for FTE, Equipment and Expense	(Unknown)	(Unknown)	(Unknown)
Cost to Secretary of State from reimbursing fees to Counties	$0	(Unknown)	(Unknown)
Estimated Net Effect to State's General Revenue Fund	**(Unknown)**	**(Unknown)**	**(Unknown)**

FISCAL IMPACT - Local Government	FY 2002 (10 Mo.)	FY 2003	FY 2004
COUNTY GENERAL REVENUE FUND			
Income to Counties from SOS reimbursing UCC fees		Unknown	Unknown
Loss of income from UCC fees		(Unknown)	(Unknown)
Estimated Net Effect to Local Government *	**$0**	**$0**	**$0**

*** County Employees Retirement System is not considered local funds for fiscal note purposes, therefore, fiscal impact does not include CERF's statement of fiscal impact.**

FISCAL IMPACT - Small Business

Small businesses that engage in transactions subject to the Uniform Commercial Code would in certain instances, realize less paperwork necessary to document a transaction subject to the UCC. A majority of those transactions would be made with only one UCC filing at the Secretary of State's Office as opposed to dual filing at both the state and county level.

DESCRIPTION

This bill substantially revises Article 9 of the Uniform. Commercial Code regulating secured transactions. In its main provisions, the bill:

(1) Expands the scope of Article 9 to include additional types of property in which a security interest can be taken by a creditor and additional kinds of collateral, including sales of payment intangibles and promissory notes, security interests created by governmental debtors, health insurance receivables, consignments, and commercial tort claims;

(2) Clarifies that filing a financing statement perfects a security interest, even if another method of perfection exists;

(3) Allows control as a method of perfection for letter of credit rights and deposit accounts. Current law authorizes control, in which the debtor cannot transfer the property without the creditor's consent, as the method of perfection for only investment property;

(4) Increases automatic perfection for a purchase money security interest from the current 10 days to 20 days. Attachment of a purchase money security interest is perfection for the duration of the 20-day period, then another method of perfected automatically for the duration of the security interest; for the duration of the 20-day period, then another method of perfection is necessary to continue the perfected security interest. A purchase money security interest in consumer goods, however, remains perfected automatically for the duration of the security interest;

(5) Changes the choice of law rule as to which state's law governs perfection, its effect, and a creditor's priority.
Under current law, it is the state in which the collateral is found. The bill chooses the state that is the location of the debtor. If the debtor is an entity created by state registration, the location of the debtor is the location in which the entity is created by registration. If the entity is a corporation, the location of the debtor is the state in which the corporate charter is filed or registered;

DESCRIPTION (continued)

(6) Allows the transition from paper filing to electronic filing. The only local filing of financing statements occurs in the real estate records for fixtures; all other filings are centralized with the Secretary of State's office. The Secretary of State must distribute to the counties the filing fees each county would have received had the filing been made there pursuant to the law as it existed prior to July 1, 2002;

(7) Changes certain aspects of enforcing a security interest that is included in a consumer transaction. A consumer cannot waive redemption rights in a financing agreement; a consumer is entitled to disclosure of the amount of any deficiency assessed against him or her; a consumer buyer of goods who prepays in whole or in part has an enforceable interest in the purchased goods and may obtain the goods as a remedy; and a secured creditor cannot accept collateral as partial satisfaction of a consumer obligation; and

(8) Provides new rules for guarantors for the interests of subordinate creditors with security interests in the same property and for aspects of enforcement when the debtor is a consumer debtor.

The repeal of the existing Article 9 provisions and the enactment of the new provisions take effect July 1, 2002.

This legislation is not federally mandated, would not duplicate any other program and would require additional capital improvements or rental space.

SOURCES OF INFORMATION

Secretary of State
Department of Revenue
Department of Economic Development- Division of Finance
Department of Labor and Industrial Relations
County Employees Retirement Fund
Office of Administration- Division of Budget and Planning
Department of Insurance

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Director
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